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TO:	**Director of Technology Center**	**Group Art Unit: 3627**
COMPANY:	**United States Patent and Trademark Office**	
FACSIMILE NO:	**571-273-8300**	
FROM:	**John Biggers, Reg. No. 44,537**	
RE:	**Petition for Review of a Restriction Requirement Pursuant to 37 C.F.R. § 1.144; Title: "Facilitating International Customs Planning"**	**Atty. Docket No.: AUS920010422US1 (042)**
SERIAL NO.:	**09/915,438**	**CUSTOMER NO.: 34533**
NUMBER OF PAGES:	**(Including Cover) 24**	
COMMENTS:	**Please see attached.**	

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TRANSMITTAL FORM

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Total Number of Pages in This Submission: 24

Application Number	09/915,438
Filing Date	07/26/2001
First Named Inventor	Rabindranath Dutta
Art Unit	3627
Examiner Name	O Connor, Gerald J.
Attorney Docket Number	AUS920010422US1

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
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Remarks

The Commissioner is authorized to charge or credit Deposit Account No. 09-0447.

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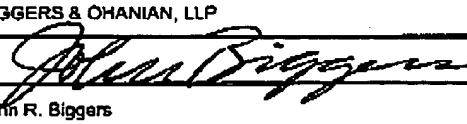
Signature			
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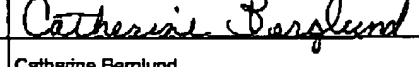
Signature			
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AUS920010422US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rabindranath Dutta	§	Group Art Unit: 3627
Serial No.: 09/915,438	§	Examiner: O Connor, Gerald J.
Filed: July 26, 2001	§	Atty Docket No.: AUS920010422US1
Title: Facilitating International Customs Planning	§	Customer No. 34533

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November 1, 2005
Date
Catherine Berglund
Catherine Berglund

PETITION FOR REVIEW OF A RESTRICTION REQUIREMENT PURSUANT TO 37 C.F.R. § 1.144

Dear Sir:

This is a petition for review of a restriction requirement pursuant to 37 CFR § 1.144.

STATEMENT OF FACTS

The original application in the present case includes sixty claims. A first office action dated July 19, 2004, included a restriction requirement under 35 U.S.C. § 121. Applicants requested reconsideration and withdrawal of the restriction requirement in Applicants' Response to Office Action dated August 17, 2004, giving the reasons therefor. Applicants' Response to the restriction requirement distinctly and specifically pointed out the errors in the restriction requirement. A second office action dated

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December 9, 2004, acknowledged Applicants' election with traverse and repeated and made final the restriction requirement. A final office action rejecting all elected claims was issued on June 1, 2005. Applicants filed a notice of appeal on August 31, 2005.

The office action of July 19, 2004, required restriction to one of the following inventions under 35 U.S.C. § 121:

I. Claims 1-20, drawn to a method of database or file accessing comprising distributed or remote access, classified in class 707, subclass 10.

II. Claims 21-40, drawn to a networked electrical computer or digital processing system comprising remote data accessing, classified in class 709, subclass 218.

III. Claims 41-60, drawn to a data processing apparatus for generating database or data structure (e.g. via user interface), classified in class 707, subclass 102."

Applicants provisionally elected with traverse Group I, claims 1-20, for prosecution in the present case. The non-elected claims stand withdrawn by the Examiner. Attached to this Petition is an Appendix of claims 1-60 in the present case as amended in Response to the Office Action dated December 9, 2004.

ARGUMENT

Applicants were issued a requirement for restriction of claims under 35 U.S.C. § 121. Under 35 U.S.C. § 121, "[i]f two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions." Applicants respectfully propose for the reasons set forth below that the three inventions as identified in the Office Action in fact are not independent nor distinct

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within the meaning of 35 U.S.C. § 121, that the present restriction requirement is therefore incorrect, and that the three inventions as identified in the Office Action should be examined together in the present case. Applicants now petition the Director to review the restriction requirement and withdraw the restriction.

Inventions I, II, and III Claim Respectively Method, System, and Product Aspects Of The Same Underlying Invention

Inventions I, II, and III are claimed in the most common claim pattern for computer-related inventions. Inventions I, II, and III claim respectively method, system, and computer program product aspects of the same underlying computer-related invention. The fact that Applicants in cases involving computer software are entitled to claim computer program product aspects of the invention is well settled. *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). In addition, the fact that claiming system aspects and method aspects of the same computer related invention in the same application is absolutely correct and proper is evidenced by the literally thousands of issued patents containing this claim pattern – method claims, system or apparatus claims, computer program product claims – all permissibly different ways of claiming the same underlying computer related invention. A quick search on the USPTO website patent search engine for "computer program product" in the claims field for cases after 1976 yields 10089 issued patents for computer-related inventions, many of which are entitled with some variation of "System and Method for ..." Most if not all of these issued patents include method, system, and computer program product claims in exactly the same claiming pattern as used in the original application in the present case.

Applicants set forth below a detailed response to the restriction requirement with many technical legal reasons why the restriction requirement should be removed. In all this technical detail, however, Applicants respectfully submit that it is useful to keep in mind the common sense notion that the claiming pattern of the original application in this case is the standard, common, typical approach to claiming that is used in claiming most computer related inventions.

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Inventions I, II, and III Are Not Independent

Applicants respectfully propose that no doubt exists that the three inventions as identified in the Office Action are related, or not independent, inventions. Applicants note the Examiner's position, illustrated at paragraph 2, page 2 of the office action of July 19, 2004, which states "Invention I is related to each of Inventions II and III, as process and apparatus for its practice." Applicants contend, therefore, that the principal condition which must be fulfilled in order for the Examiner to require restriction is that the inventions as claimed must be distinct.

> Where two or more related inventions are being claimed, the principal question to be determined in connection with a requirement to restrict or a rejection on the ground of double patenting is whether or not the inventions as claimed are distinct. If they are distinct, restriction may be proper. If they are not distinct, restriction is *never* proper.

MPEP § 806.05 (emphasis added).

Inventions I, II, and III Are Not Distinct According To MPEP § 806.05(e)

MPEP § 806.05(e) states "If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention." Inventions I, II, and III respectively claim method, system, and product aspects of facilitating customs planning and clearance. This is a common claiming pattern for computer-related inventions, a pattern under which Inventions I, II, and III ought not be subjected to restriction according to 35 U.S.C. § 121.

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Inventions I and II Are Not Related As Process and Apparatus

The Office Action states that "Invention I is related to each of Inventions II and III, as process and apparatus for its practice." The Office Action also states that "The inventions are distinct if it can be shown that *either*: (1) the process as claimed can be practiced by another, materially different apparatus, or by hand, or (2) the apparatus as claimed can be used to practice another, materially different process. (MPEP § 806.05(e))." The Office Action makes no claim that the apparatus as claimed can be used to practice another process. Instead, the Office Action says that the claimed process can be practiced by a different apparatus – including 'calculating duty' being performed by hand.

In response, Applicants note with respect that correct restriction analysis according to MPEP § 806.05(e) is to the "process as claimed." According to MPEP § 806.05(e), therefore, the inventions are distinct if it can be shown that either the process as claimed can be practiced *by another*, *materially different apparatus*, or if the process as claimed can be practiced *by hand*. Applicants contend that under MPEP § 806.05(e), the Examiner cannot properly show the inventions to be distinct by showing that *particular elements* of a process as claimed can be practiced by hand, with the remainder of elements of the process to be practiced by another apparatus. An apparatus that only practices some of the required elements of the process as claimed is not an apparatus claimed by the present invention. Invention I as identified in the Office Action therefore is not related to Inventions II and III as process and apparatus for its practice.

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Inventions I and III Are Not Related
As Process and Apparatus

The Office Action states that "Invention I is related to each of Inventions II and III, as process and apparatus for its practice." Invention III as identified, however, claims 41-60, is directed to a "computer program product," that is, not to an apparatus, but to software as an article of manufacture within the meaning of *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). Because Invention III is not directed to an apparatus, Invention I cannot be related to Invention III as process and apparatus for its practice.

Invention II and III Are Not Related
As Combination and Subcombination

The Office Action states that "Invention II is related to Invention III as combination and subcombination." A combination is an organization of which a subcombination or element is a part. MPEP § 806.05(a). Invention II claims an apparatus, a computer, a "system for facilitating customs planning and clearance ... " Invention III claims a computer program product, which is a computer program recorded on a recording medium. A computer program recorded on a recording medium is not an element or part of a computer system. Invention II is not related to Invention III as combination and subcombination, and restriction for this reason is not correct.

Subcombination Has No Separate Utility

The Office Action states that Invention II is related to Invention III as combination and subcombination and that the subcombination has separate utility, "such as for use as a paperweight." As mentioned above, Invention III claims a computer program product, a computer program recorded on a recording medium. The computer program product as claimed in the present application has no reasonable or practical separate utility because recording media have no practical use as paperweights – nor do they have any other practical uses other than uses as computer program products. To grant separate utility as

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a paperweight is to grant separate utility to each and every apparatus or article of manufacture that is heavier than air – because all such objects can be used as paperweights in the broadest sense. The claiming pattern between Inventions II and III is in fact a pattern of claiming system and product aspects of a computer-related invention. This is a very common pattern of claiming, and the rules implementing 35 U.S.C. § 121 are not intended to separate examination of such closely related aspects of an invention.

Inventions I, II, and III Are Not Separate in the Art

The Office Action states that the Inventions I, II, and III "have acquired a separate status in the art as shown by their different classification." The Office Action classified claims 1-20 in class 707, subclass 10; claims 21-40 in class 709, subclass 218; and claims 41-60 in class 707, subclass 102.

Applicants respectfully propose in response that separate status of inventions I, II, and III is not evidenced by their different classification because all three Inventions I, II, and III are properly classified in one class: class 707, subclass 100. The subject matter of class 707, subclass 100, includes "means or steps for organizing and inter-relating data or files, including relational, network, hierarchical, and entity–relationship models, among others." Inventions I, II, and III as identified in the Office Action are directed to method aspects, system aspects, and product aspects respectively of facilitating customs planning and clearance, including organizing data or files in a relational model, that is, with a customs planning record "related through a foreign key field" to a master customs planning record, and also including inter-relating data or files in a network model, "data communications through at least one internet connection." Because all three inventions are properly classified in one class, there is no basis in different classification for treating them as having any separate status in the art.

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Examining Inventions I, II, and III Together Represents No Additional Burden Of Examination

MPEP § 803 states, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." As mentioned, Inventions I, II, and III respectively claim method, system, and product aspects in the present application for facilitating customs planning and clearance. This is a common claiming pattern for computer-related inventions that the PTO has examined thousands of times without restriction. This claiming pattern represents no additional burden of examination because all three inventions are correctly classified in class 707, subclass 100.

Conclusion

Applicants set forth above a detailed response to the restriction requirement with many technical legal reasons why the restriction requirement should be removed. In the presence of all this technical detail, however, Applicants respectfully reiterate that it is useful to keep in mind the common sense notion that the claiming pattern of the original application in this case is the standard, common, typical approach to claiming that is used in claiming most computer related inventions. For that reason and for all the other reasons set forth above, Applicants respectfully propose that Inventions I, II, and III as identified in the Office Action are not independent and distinct within the meaning of 35 U.S.C. § 121, the present restriction requirement is therefore incorrect, and the three inventions as identified in the Office Action should be examined together in the present case. Applicants respectfully request review of the restriction requirement and withdrawal of the restriction of the claims in the present case.

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The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

Date: November 1, 2005 By: _____

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APPENDIX OF CLAIMS
AS AMENDED IN PATENT APPLICATION OF
RABINDRANATH DUTTA, *ET AL.*, SERIAL NO. 09/915,438

CLAIMS

What is claimed is:

1. (Original) A method for facilitating customs planning and clearance, the method comprising the steps of:

creating in an international customs server, in response to a signal communicated through a client device coupled for data communications through at least one internet connection to the international customs server, a master customs planning record, wherein the master customs planning record comprises:

a master identification field in which is stored a master identity code for the master customs planning record, and

a duty total field in which is stored the total amount of duty to be paid on goods identified in related customs planning records;

creating in an international customs server a related customs planning record, wherein the related customs planning record is related through a foreign key field to the master customs planning record, wherein the related customs planning record comprises:

the foreign key field in which is stored the master identity code of the master customs planning record;

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one or more description fields describing the goods for import to a destination country, the destination country having an identity;

a duty amount field in which is stored an amount of duty to be paid on the goods; and

the identity of the destination country;

calculating duty on the goods described in the related customs planning record;

storing the amount of the calculated duty in the duty amount field in the related customs planning record; and

incrementing, by the amount of the calculated duty stored in the duty amount field in the related customs planning record, the total amount of duty stored in the duty total field in the master customs planning record.

2. (Original) The method of claim 1 wherein the one or more fields describing goods for import in the related customs planning records comprise:

a text description field in which is stored a textual description of the goods for import;

a category field in which is stored a code identifying the category of the goods for import; and

a quantity field in which is stored the quantity of goods for import.

3. (Original) The method of claim 1 wherein each related customs planning record represents a prospective importation into a destination country of a quantity of goods

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of a category.

4. (Original) The method of claim 1 further comprising creating, in dependence upon the related customs planning record, a customs declaration form for a destination country.

5. (Previously Amended) The method of claim 4 further comprising submitting the customs declaration form to a customs declaration forms database for the destination country.

6. (Original) The method of claim 1 further comprising submitting, to the customs service of the destination country, payment of the duty.

7. (Original) The method of claim 1 wherein the client device is a workstation in a kiosk at an airport.

8. (Original) The method of claim 1 wherein the client device is a workstation installed in the back of a passenger chair in an airplane.

9. (Original) The method of claim 1 wherein the client device is a personal computer.

10. (Original) The method of claim 1 wherein the client device is a hand-held personal data administrator.

11. (Original) The method of claim 1 wherein the at least one internet connection is wireless.

12. (Original) The method of claim 1 wherein the master customs planning record further comprises an importer identification field in which is stored an identity of an importer.

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13. (Original) The method of claim 1 wherein the related customs planning record further comprises an importer identification field in which is stored an identity of an importer.

14. (Original) The method of claim 1 wherein the international customs server is a software application installed and operating on one or more computers, the software application further comprising software routines storing and retrieving related customs planning records, validating goods described in related customs planning records against customs regulations stored in customs regulations databases, and submitting to customs databases declaration forms prepared in dependence upon the related customs planning records.

15. (Previously Amended) The method of claim 4 wherein creating in dependence upon the related customs planning record a customs declaration form for the destination country further comprises reading customs data from a related customs planning record and inserting the read customs data into a declaration form.

16. (Previously Amended) The method of claim 5 wherein submitting the customs declaration form to a customs declaration forms database for the destination country further comprises communicating the form as electronic data communications through at least one internet connection.

17. (Original) The method of claim 1 further comprising validating goods described in a related customs planning record.

18. (Previously Amended) The method of claim 17 wherein validating goods described in a related customs planning record further comprises comparing the goods described in the related customs planning record to customs regulations governing the goods described by the customs data in the related customs planning record and reporting to an importer through the client device a result of the comparison.

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19. (Original) The method of claim 18 further comprising storing the result of the comparison in the related customs planning record.

20. (Original) The method of claim 1 wherein the related customs planning record comprises a related customs planning record form having a structure, wherein the structure of the related customs planning record form is dependent upon customs regulations.

21. (Withdrawn) A system for facilitating customs planning and clearance, the system comprising:

means for creating in an international customs server, in response to a signal communicated through a client device coupled for data communications through at least one internet connection to the international customs server, a master customs planning record, wherein the master customs planning record comprises:

a master identification field in which is stored a master identity code for the master customs planning record, and

a duty total field in which is stored the total amount of duty to be paid on goods identified in related customs planning records;

means for creating in an international customs server a related customs planning record, wherein the related customs planning record is related through a foreign key field to the master customs planning record, wherein the related customs planning record comprises:

the foreign key field in which is stored the master identity code of the master customs planning record;

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one or more description fields describing the goods for import to a destination country, the destination country having an identity;

a duty amount field in which is stored an amount of duty to be paid on the goods; and

the identity of the destination country;

means for calculating duty on the goods described in the related customs planning record;

means for storing the amount of the calculated duty in the duty amount field in the related customs planning record; and

means for incrementing, by the amount of the calculated duty stored in the duty amount field in the related customs planning record, the total amount of duty stored in the duty total field in the master customs planning record.

22. (Withdrawn) The system of claim 21 wherein the one or more fields describing goods for import in the related customs planning records comprise:

a text description field in which is stored a textual description of the goods for import;

a category field in which is stored a code identifying the category of the goods for import; and

a quantity field in which is stored the quantity of goods for import.

23. (Withdrawn) The system of claim 21 wherein each related customs planning record represents a prospective importation into a destination country of a quantity of goods

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of a category.

24. (Withdrawn) The system of claim 21 further comprising means for creating, in dependence upon the related customs planning record, a customs declaration form for a destination country.

25. (Withdrawn) The system of claim 21 further comprising means for submitting the customs declaration form to a customs declaration forms database for the destination country.

26. (Withdrawn) The system of claim 21 further comprising means for submitting, to the customs service of the destination country, payment of the duty.

27. (Withdrawn) The system of claim 21 wherein the client device is a workstation in a kiosk at an airport.

28. (Withdrawn) The system of claim 21 wherein the client device is a workstation installed in the back of a passenger chair in an airplane.

29. (Withdrawn) The system of claim 21 wherein the client device is a personal computer.

30. (Withdrawn) The system of claim 21 wherein the client device is a hand-held personal data administrator.

31. (Withdrawn) The system of claim 21 wherein the at least one internet connection is wireless.

32. (Withdrawn) The system of claim 21 wherein the master customs planning record further comprises an importer identification field in which is stored an identity of an importer.

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33. (Withdrawn) The system of claim 21 wherein the related customs planning record further comprises an importer identification field in which is stored an identity of an importer.

34. (Withdrawn) The system of claim 21 wherein the international customs server is a software application installed and operating on one or more computers, the software application further comprising computer hardware and software comprising means for storing and means for retrieving related customs planning records, means for validating goods described in related customs planning records against customs regulations stored in customs regulations databases, and means for submitting to customs databases declaration forms prepared in dependence upon the related customs planning records.

35. (Withdrawn) The system of claim 21 wherein means for creating in dependence upon the related customs planning record a customs declaration form for the destination country further comprises means for reading customs data from a related customs planning record and means for inserting the read customs data into a declaration form.

36. (Withdrawn) The system of claim 21 wherein means for submitting the customs declaration form to a customs declaration forms database for the destination country further comprises means for communicating the form as electronic data communications through at least one internet connection.

37. (Withdrawn) The system of claim 21 further comprising means for validating goods described in a related customs planning record.

38. (Withdrawn) The method of claim 37 wherein means for validating the related customs planning records further comprises means for comparing the goods described by customs data in the related customs planning record to customs regulations governing the goods described by the customs data in the related customs planning

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record and means for reporting to an importer through the client device a result of the comparison.

39. (Withdrawn) The method of claim 38 further comprising means for storing the result of the comparison in the related customs planning record.

40. (Withdrawn) The system of claim 21 wherein the related customs planning record comprises a related customs planning record form having a structure, wherein the structure of the related customs planning record form is dependent upon customs regulations.

41. (Withdrawn) A computer program product for facilitating customs planning and clearance, the system comprising:

a recording medium;

means, recorded on the recording medium, for creating in an international customs server, in response to a signal communicated through a client device coupled for data communications through at least one internet connection to the international customs server, a master customs planning record, wherein the master customs planning record comprises:

a master identification field in which is stored a master identity code for the master customs planning record, and

a duty total field in which is stored the total amount of duty to be paid on goods identified in related customs planning records;

means, recorded on the recording medium, for creating in an international customs server a related customs planning record, wherein the related customs planning record is related through a foreign key field to the master customs planning record, wherein the related customs planning record comprises:

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the foreign key field in which is stored the master identity code of the master customs planning record;

one or more description fields describing the goods for import to a destination country, the destination country having an identity;

a duty amount field in which is stored an amount of duty to be paid on the goods; and

the identity of the destination country;

means, recorded on the recording medium, for calculating duty on the goods described in the related customs planning record;

means, recorded on the recording medium, for storing the amount of the calculated duty in the duty amount field in the related customs planning record; and

means, recorded on the recording medium, for incrementing, by the amount of the calculated duty stored in the duty amount field in the related customs planning record, the total amount of duty stored in the duty total field in the master customs planning record.

42. (Withdrawn) The computer program product of claim 41 wherein the one or more fields describing goods for import in the related customs planning records comprise:

a text description field in which is stored a textual description of the goods for import;

a category field in which is stored a code identifying the category of the goods for import; and

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a quantity field in which is stored the quantity of goods for import.

43. (Withdrawn) The computer program product of claim 41 wherein each related customs planning record represents a prospective importation into a destination country of a quantity of goods of a category.

44. (Withdrawn) The computer program product of claim 41 further comprising means, recorded on the recording medium, for creating, in dependence upon the related customs planning record, a customs declaration form for a destination country.

45. (Withdrawn) The computer program product of claim 41 further comprising means, recorded on the recording medium, for submitting the customs declaration form to a customs declaration forms database for the destination country.

46. (Withdrawn) The computer program product of claim 41 further comprising means, recorded on the recording medium, for submitting, to the customs service of the destination country, payment of the duty.

47. (Withdrawn) The computer program product of claim 41 wherein the client device is a workstation in a kiosk at an airport.

48. (Withdrawn) The computer program product of claim 41 wherein the client device is a workstation installed in the back of a passenger chair in an airplane.

49. (Withdrawn) The computer program product of claim 41 wherein the client device is a personal computer.

50. (Withdrawn) The computer program product of claim 41 wherein the client device is a hand-held personal data administrator.

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51. (Withdrawn) The computer program product of claim 41 wherein the at least one internet connection is wireless.

52. (Withdrawn) The computer program product of claim 41 wherein the master customs planning record further comprises an importer identification field in which is stored an identity of an importer.

53. (Withdrawn) The computer program product of claim 41 wherein the related customs planning record further comprises an importer identification field in which is stored an identity of an importer.

54. (Withdrawn) The computer program product of claim 41 wherein the international customs server is a software application installed and operating on one or more computers, the software application further comprising computer hardware and software comprising means, recorded on the recording medium, for storing and means, recorded on the recording medium, for retrieving related customs planning records, means, recorded on the recording medium, for validating goods described in related customs planning records against customs regulations stored in customs regulations databases, and means, recorded on the recording medium, for submitting to customs databases declaration forms prepared in dependence upon the related customs planning records.

55. (Withdrawn) The computer program product of claim 41 wherein means, recorded on the recording medium, for creating in dependence upon the related customs planning record a customs declaration form for the destination country further comprises means, recorded on the recording medium, for reading customs data from a related customs planning record and means, recorded on the recording medium, for inserting the read customs data into a declaration form.

56. (Withdrawn) The computer program product of claim 41 wherein means, recorded on the recording medium, for submitting the customs declaration form to a customs

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declaration forms database for the destination country further comprises means, recorded on the recording medium, for communicating the form as electronic data communications through at least one internet connection.

57. (Withdrawn) The computer program product of claim 41 further comprising means, recorded on the recording medium, for validating goods described in a related customs planning record.

58. (Withdrawn) The method of claim 57 wherein means, recorded on the recording medium, for validating the related customs planning records further comprises means, recorded on the recording medium, for comparing the goods described by customs data in the related customs planning record to customs regulations governing the goods described by the customs data in the related customs planning record and means, recorded on the recording medium, for reporting to an importer through the client device a result of the comparison.

59. (Withdrawn) The method of claim 58 further comprising means, recorded on the recording medium, for storing the result of the comparison in the related customs planning record.

60. (Withdrawn) The computer program product of claim 41 wherein the related customs planning record comprises a related customs planning record form having a structure, wherein the structure of the related customs planning record form is dependent upon customs regulations.

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